

Application No.: 10/720906

Case No.: 59424US003

REMARKS

Claims 1-65 are pending. Claims 20-57 and 60-65 have been withdrawn from consideration.

Restriction Requirement

Claims 1 - 65 stand restricted under 35 USC § 121 as follows:

I. Claims 1 – 19, 58 and 59 are said to be drawn to Method of making a crosslinked fluorinated polymer comprising pending groups and reacted with crosslinking agents, classified in Class 525, subclass 326.2;

II. Claims 20 – 31, 62 and 63 are said to be drawn to Polymer product made of claim 1 composition, classified in Class 528, subclass 401;

III. Claims 32 – 48, 60 and 61 are said to be drawn to Method of self-crosslinked fluorinated polymer with two pending groups to be crosslinked to each other, classified in Class 526, subclass 243; and

IV. Claims 49 – 57, 64 and 65 are said to be drawn to polymer product made of claim 32 composition, classified in Class 528, subclass 401.

During a telephone conversation with Examiner Wu on April 15, 2005, a provisional election was made with traverse to elect Group I, claims 1 – 19, 58 and 59.

Reconsideration and withdrawal or modification of the restriction requirement is respectfully requested.

Applicants submit that the claims of Groups I-IV are so interrelated that a search of one group of claims will reveal art to the other. Moreover, the classification of claims of Groups I-IV in different classes and subclasses is not sufficient grounds to require restriction.

Were restriction to be effected between the claims of Groups I-IV, a separate examination of the claims of Groups I-IV would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of Groups I-IV would have to be as rigorous as when only the claims of Group I were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated.

Application No.: 10/720906

Case No.: 59424US003

Further, Applicants submit that for restriction to be effected between the claims of Groups I-IV would place an undue burden by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting two applications and maintaining two patents.

§ 103 Rejections

Claims 1-9, 11 and 13-15 stand rejected under 35 USC § 103(a) as purportedly unpatentable over U.S. Pat. App. Pub. No. 2003/0032739 (Kerres) in view of U.S. Pat. No. 6,090,895 (Mao) and U.S. Pat. No. 6,872,781 (Hedhli). Claims 14, 15, 58 and 59 stand rejected under 35 USC § 103(a) as purportedly unpatentable over U.S. Pat. App. Pub. No. 2003/0032739 (Kerres) in view of U.S. Pat. No. 6,090,895 (Mao) and U.S. Pat. No. 6,872,781 (Hedhli) and further in view of U.S. Pat. App. Pub. No. 2004/0241518 (Yang). Applicants respectfully traverse.

In order to establish a prima facie case of obviousness of a claim, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ("All words in a claim must be considered in judging the patentability of that claim against the prior art.") (cited at MPEP § 2143.03).

The present application concerns, in general, polymer electrolytes with aromatic sulfone crosslinking. The rejections above depend on a purported disclosure in Kerres of the aromatic sulfone crosslinking recited in the present claims. However, the purported teaching is not found in Kerres. Specifically, claim 1 recites a step of reacting the specified highly fluorinated polymer with a crosslinking agent according to the formula Ar_nR^1 . Kerres discloses no such crosslinking agent. Claim 2 recites a method wherein crosslinks are made according to the formula $(-SO_2Ar)_nR^1$. Again, Kerres discloses no such crosslinks.

In the present case, Applicants submit that no prima facie case of obviousness has been established because the cited reference fails to teach or suggest claim limitations required in the rejected claims.

Application No.: 10/720906

Case No.: 59424US003

In summary, the rejection of claims 1-9, 11, 13-15 and 58-59 under 35 USC § 103(a) have been overcome and should be withdrawn.

Allowable Subject Matter

Claims 10, 12 and 16-19 are acknowledged as being drawn to allowable subject matter.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

June 24, 2005

Date

By: 

Philip Y. Dahl, Reg. No.: 36,115

Telephone No.: (651) 737-4029

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833